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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,472	05/02/2007	Goran Dahlberg	ABE1-41355	1306
116	7590	07/01/2009	EXAMINER	
PEARNE & GORDON LLP			DEXTER, CLARK F	
1801 EAST 9TH STREET				
SUITE 1200			ART UNIT	PAPER NUMBER
CLEVELAND, OH 44114-3108			3724	
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			07/01/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/594,472	DAHLBERG, GORAN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Clark F. Dexter	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 September 2006 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \*    c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>9/27/06</u> .	6) <input type="checkbox"/> Other: ____ .

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

2. The information disclosure statement filed on September 27, 2006 has been received and the references listed thereon have been considered.

### ***Drawings***

3. The drawings are objected to because of the following informalities:

In Figure 1, numerals or the like (e.g., 13a) should be provided to indicate the cutting elements.

In Figure 4, numeral 28 is used twice to indicate two different features which is improper.

4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

5. Claims 1-11 are objected to because of the following informalities:

In claim 1, line 6, it seems that --for-- is missing before "locking".

In claim 9, line 3, "limits" should read --limit--.

In claim 10, line 2, "releases" should read --released--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112, 2<sup>nd</sup> paragraph***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 1-2, the recitation “such as a pole hedge trimmer, a pole saw or the like” renders the claim vague and indefinite as to what structure is being claimed.

In claim 8, line 2, the recitation “the first gear housing part” lacks antecedent basis.

In claim 9, line 2, the recitation “the gear housing parts” lacks antecedent basis; in line 3, the recitation “the other gear housing parts” lacks antecedent basis.

In claim 10, lines 2-3, the recitation “the working position range” lacks antecedent basis; in line 3, the recitation “the transport position” lacks antecedent basis.

In claim 11, line 3, the recitations “the transport position” and “the working position” each lack antecedent basis

### ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 2 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by European Publication 0 879 553 (hereafter EP '883).

EP '883 discloses a device with every structural limitation of the claimed invention including:

a drive unit (e.g., 2) that via a shaft tube (e.g., 1) is connected to a cutting unit (e.g., 18) that is turnably secured at the shaft tube and is moveable between at least

two positions, the cutting unit being provided with one or several movable cutting elements characterized in that the tool is provided with first means (e.g., 6, 7, 13, 14; 19, 21, 22) locking the movement of the cutting elements (e.g., the up and down pivotal movements about hinge 9) when the cutting unit is in at least one of said positions; [claim 2] characterized in that said locking position is a transport position; [claim 7] characterized in that said first means are influenced by a cam surface (e.g., the cam surfaces of the locking devices shown in Fig. 2 or 3).

10. Claims 1, 2 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Lonnecker, pn 4,651,420.

Lonnecker discloses a device with every structural limitation of the claimed invention including:

a drive unit (e.g., 15) that via a shaft tube (e.g., 12) is connected to a cutting unit (e.g., 22) that is turnably secured at the shaft tube and is moveable between at least two positions, the cutting unit being provided with one or several movable cutting elements characterized in that the tool is provided with first means (e.g., 13) locking the movement of the cutting elements (e.g., the up and down pivotal movements about hinge 23) when the cutting unit is in at least one of said positions;

[claim 2] characterized in that said locking position is a transport position;

[claim 7] characterized in that said first means are influenced by a cam surface (e.g., the cam surfaces of locking device 13).

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 3-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Publication 0 879 553 (hereafter EP '883).

Regarding claims 3-11, EP '883 discloses a device with almost every structural limitation of the claimed invention but has only a disclosure of a motor 19 arranged between the shaft tube and the cutting unit and thus lacks the specific gear configuration including first means that locks at least one of the movable parts in the gear transmitting the drive force from the drive unit to the cutting unit (e.g., the drive force of 21 causing the cutting unit to pivot). However, the Examiner takes Official notice that it is old and well known in the art to provide such gear configurations to gain various well known benefits including gear reduction and the like for providing a desired pivoting speed and power ratio. Therefore, it would have been obvious to one having ordinary skill in the art to provide such a gear configuration on the device of EP '883 to gain the well known benefits including those described above.

Additionally with respect to claims 7-11, EP '883 discloses a device with almost every structural limitation of the claimed invention but has a hinge structure as the pivot structure rather than a gear structure for pivoting the cutting unit. However, the Examiner takes Official notice that it is old and well known in the art to provide gears as

the specific type of pivot structure to gain various well known benefits including durability, stability and manufacturing flexibility. Therefore, it would have been obvious to one having ordinary skill in the art to provide a gear structure as the pivoting structure of Lonnecker to gain the well known benefits including those described above.

13. Claims 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lonnecker, pn 4,651,420.

Lonnecker discloses a device with almost every structural limitation of the claimed invention but has a hinge structure as the pivot structure rather than a gear structure for pivoting the cutting unit. However, the Examiner takes Official notice that it is old and well known in the art to provide gears as the specific type of pivot structure to gain various well known benefits including durability, stability and manufacturing flexibility. Therefore, it would have been obvious to one having ordinary skill in the art to provide a gear structure as the pivoting structure of Lonnecker to gain the well known benefits including those described above.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Clark F. Dexter/  
Primary Examiner, Art Unit 3724**

cf  
June 22, 2009